

**To:** Chan, Janice[Chan.Janice@epa.gov]; LEVIN, NANCY[Levin.Nancy@epa.gov]; Chew, Andrew[Chew.Andrew@epa.gov]; Aquitania, Manny[Aquitania.Manny@epa.gov]  
**From:** Chen, Eugene  
**Sent:** Thur 1/21/2016 10:27:06 PM  
**Subject:** RE: Discuss: ADEQ Ag BMP, exemptions, and VOC and PM10 thresholds for nonattainment areas  
[Ohio State AFO fact sheet.pdf](#)  
[70 FR 4958 Animal Feeding Operations CAFO.pdf](#)

Hi All,

Attached are background and some supporting documents for today's meeting regarding the VOC and PM10 exemptions (although in the case of VOC, it's a little messier than that).

#### Particulate Matter

Maricopa County regulates particulate matter primarily through County Rules 310 (Fugitive Dust) and 311 (PM from Process Industries). Per ARS 49-457, regulated agricultural activities must instead comply the agricultural BMPs issued by the agricultural committee. Per ARS 49-457(O), "[...]this section preempts further regulation of regulated agricultural activities by a county, city, town or other political subdivision of this state." I'm told that our people who work on permit rules have raised this issue with ADEQ and Maricopa, and have asked them to provide a legal justification for this exemption.

#### VOC

The basis for the VOC exemption is less clear to me. On January 31, 2005, EPA apparently entered into/offered a Consent Agreement and Final Order with animal feeding operations. The FR notice and a fact sheet (I suggest starting with the fact sheet) are attached. In summary, an animal feeding operation (AFO) that signs the agreement. In exchange for paying a civil penalty and making their facilities available for monitoring, EPA apparently agreed to not sue regarding violations related to emissions from agricultural livestock and their waste (there are other conditions). At the same time, EPA will be developing an emission estimation methodologies (EEM) guidance document, as well as emission thresholds. At which point, facilities will need to apply for and comply with permits.

My understanding is that EPA has not issued this EEM. While that does not preclude state or local districts from requiring permits, it should come as no surprise that most have not.

I have not read through the entire text of the CAFO yet, but I think there are two questions that would most interest the enforcement staff: 1) are there violations not covered by the CAFO that can be pursued, and 2) what if Hickman Farms has not signed on to the CAFO?

Thanks,

Eugene

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**From:** Chan, Janice

**Sent:** Wednesday, January 20, 2016 7:06 PM

**To:** LEVIN, NANCY <Levin.Nancy@epa.gov>; Chew, Andrew <Chew.Andrew@epa.gov>; Chen, Eugene <Chen.Eugene@epa.gov>; Aquitania, Manny <Aquitania.Manny@epa.gov>

**Subject:** RE: Discuss: ADEQ Ag BMP, exemptions, and VOC and PM10 thresholds for nonattainment areas

Hi Everyone,

I think the attached 2002 administrative order (with 114 letter) will help as a background/foundation for our Thursday afternoon discussion, as Andrew and I are trying to put together 114 letters for Hickman. Please look at the pages referring to requests or orders for emissions test data. Also, regarding the authority for requiring emissions testing, can you please check what the exemptions for a permit covering VOC and PM10 under the SIP?

Thanks, << File: Buckeye-114-UAO-Final.pdf >>

Janice

-----Original Appointment-----

**From:** Chan, Janice

**Sent:** Friday, January 15, 2016 3:08 PM

**To:** Chan, Janice; LEVIN, NANCY; Chew, Andrew; Chen, Eugene; Aquitania, Manny

**Subject:** Discuss: ADEQ Ag BMP, exemptions, and VOC and PM10 thresholds for nonattainment areas

**When:** Thursday, January 21, 2016 2:30 PM-3:00 PM (UTC-08:00) Pacific Time (US & Canada).

**Where:** R9SF-Room-14220-6-HunterLovins

Hi Everyone,

Would Thursday afternoon rather than Wednesday work for you?

**Ex. 5 & 7**

send more documents from Region 5 along as I've reviewed them.

<< File: buckeye 114.wpd.docx >>

Thanks,

Janice

## **Ex. 5 - Deliberative Process**